

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

WILLIAM RODRÍGUEZ-GONZÁLEZ and  
MELANIE SÁNCHEZ-BONES,

Plaintiffs,

v.

MARILYN I. TORRES-ECHEVARRIA,  
PEDRO TOLEDO-DÁVILA, and HÉCTOR  
DÍAZ-SUÁREZ, in their personal and official  
capacities, and their conjugal partnerships, and  
UNNAMED INDIVIDUALS,

Defendants.

Civil No. 10-1709 (JAF)

**ORDER**

Plaintiffs sue under 42 U.S.C. §§ 1983 and 1985 for violations of their rights under the Fourth Amendment and the Due Process Clause of the U.S. Constitution. (Docket No. 1.) They also allege violations of Puerto Rico constitutional and tort law. (Id.) Defendant Héctor Díaz-Suárez (“Movant”), in his personal capacity, moves for dismissal under Federal Rule of Civil Procedure 12(b)(6) (Docket No. 16), and Plaintiffs do not oppose. Movant is the only defendant who has been served process in this case. (See Docket No. 17.)

A defendant may move to dismiss an action, based solely on the complaint, for the plaintiff’s “failure to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). In assessing such a motion, we “accept[] all well-pleaded facts as true, and we draw all reasonable inferences in favor of the [plaintiff].” Wash. Legal Found. v. Mass. Bar Found., 993 F.2d 962, 971 (1st Cir. 1993).

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1 Movant contends, inter alia, that Plaintiffs' claims are time barred. (See Docket No. 16 at  
2 9–11.) According to the complaint, the events at issue occurred on or around July 8, 2008. (See  
3 Docket No. 1 at 5.) Plaintiffs filed the instant complaint on July 24, 2010. (Docket No. 1.)

4 Sections 1983 and 1985 “borrow the forum state’s statute of limitations for personal injury  
5 claims.” Rodríguez-García v. Municipality of Caguas, 354 F.3d 91, 96 (1st Cir. 2004). The  
6 applicable statute of limitations here, absent tolling, is “Puerto Rico’s one-year period governing  
7 tort actions,” 31 L.P.R.A. § 5298(2) (1990). Id. Plaintiffs made no claim in their complaint or in  
8 response to Movant’s motion that the statute of limitations had been tolled or that their federal  
9 claims were otherwise timely. (See Docket No. 1.) We, therefore, find Plaintiffs’ federal claims  
10 time barred as to all defendants.

11 Having dismissed all federal claims, we decline to exercise supplemental jurisdiction over  
12 Plaintiffs’ claims under Puerto Rico law. See 28 U.S.C. § 1367(c)(3).

13 Given the foregoing, we hereby **GRANT** Movant’s motion (Docket No. 16) and **DISMISS**  
14 Plaintiffs’ claims against all Defendants.

15 **IT IS SO ORDERED.**

16 San Juan, Puerto Rico, this 12<sup>th</sup> day of May, 2011.

17 s/José Antonio Fusté  
18 JOSE ANTONIO FUSTE  
19 U.S. District Judge